GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

STARRED QUESTION NO:222
ANSWERED ON:30.07.2002
USE OF POTA
NAWAL KISHORE RAI;SUSHIL KUMAR INDORA

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Government have received complaints regarding misuse of POTA;

(b) if so, the details in this regard;

(c) the steps taken by the Government to form State-level Committees to check and monitor the possible misuse or abuse of POTA by various State Governments;

(d) whether the Government have instructed the State Governments to form all party leaders Committee headed by a retired judge of High Court to check and monitor the use/abuse of POTA in various States:

(e) if so, the details thereof; and

(f) the other steps taken by the Government to prevent the misuse/abuse of POTA?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI CH.VIDYASAGAR RAO)

(a) to (f): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 222 FOR ANSWER ON 30.7.2002.

(a) to (f): No specific complaint regarding misuse of the provisions of the Prevention of Terrorism Act, 2002 (POTA) has been received in the Central Government so far. Since law and order is a State subject, the implementation of POTA is primarily the responsibility of the State Governments/UT Administrations.Several safeguards have been incorporated in the Act to minimize the possibility of its misuse. Some of the main safeguards are as follows:-

(i) Investigation of an offence under the Act is to be done by an officer not below the rank of Deputy Superintendent of Police.

(ii) No court can take cognizance of an offence under the Act unless sanction of the State Government or Central Government, as the case may be, is obtained.

(iii) The Act provides safeguards against abuse of the provision relating to admissibility of confession made before a police officer.

(iv) Intimation of arrest of the accused will have to be provided to a family member immediately after arrest and this fact is to be recorded by the police officer. A Legal Practitioner on behalf of accused will be allowed to meet him during interrogation.

(v) Provision for prosecution of police officers for malafide actions under the Act and compensation to affected persons in such cases.

The State Governments/UT Administrations have been advised to ensure that the provisions of this law are used only against the terrorists and not against the innocent. They have also been advised to sensitize the police officers and others concerned with the implementation of POTA on the need to ensure its fair and transparent operation and to also install a mechanism to oversee the implementation of the Act.